

Amendment No. 1 to HB1025

Curcio
Signature of Sponsor

AMEND Senate Bill No. 908*

House Bill No. 1025

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-35-111(b), is amended by deleting the language "The authorized terms of imprisonment and fines for felonies are:" and substituting instead:

The authorized terms of imprisonment and fines for felonies committed prior to July 1, 2022, are:

SECTION 2. Tennessee Code Annotated, Section 40-35-111(b), is amended by redesignating the existing language as subdivision (b)(1) and adding the following new subdivision:

(2) Except as provided in subsection (g), the authorized terms of imprisonment and fines for felonies committed on or after July 1, 2022, are:

(A) Class A felony, not less than eight (8) years nor more than twenty-five (25) years. In addition, the jury may assess a fine not to exceed fifty thousand dollars (\$50,000), unless otherwise provided by statute;

(B) Class B felony, not less than three (3) years nor more than fifteen (15) years. In addition, the jury may assess a fine not to exceed twenty-five thousand dollars (\$25,000), unless otherwise provided by statute;

(C) Class C felony, not less than two (2) years nor more than seven (7) years. In addition, the jury may assess a fine not to exceed ten thousand dollars (\$10,000), unless otherwise provided by statute;

(D) Class D felony, not less than one (1) year nor more than five (5) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute; and

(E) Class E felony, not less than nine (9) months nor more than three (3) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute.

SECTION 3. Tennessee Code Annotated, Section 40-35-112, is amended by deleting the section and substituting:

(a)

(1) This subsection (a) applies to offenses committed prior to July 1, 2022.

(2) A Range I sentence is as follows:

(A) For a Class A felony, not less than fifteen (15) nor more than twenty-five (25) years;

(B) For a Class B felony, not less than eight (8) nor more than twelve (12) years;

(C) For a Class C felony, not less than three (3) nor more than six (6) years;

(D) For a Class D felony, not less than two (2) nor more than four (4) years; and

(E) For a Class E felony, not less than one (1) nor more than two (2) years.

(3) A Range II sentence is as follows:

(A) For a Class A felony, not less than twenty-five (25) nor more than forty (40) years;

(B) For a Class B felony, not less than twelve (12) nor more than twenty (20) years;

(C) For a Class C felony, not less than six (6) nor more than ten (10) years;

(D) For a Class D felony, not less than four (4) nor more than eight (8) years; and

(E) For a Class E felony, not less than two (2) nor more than four (4) years.

(4) A Range III sentence is as follows:

(A) For a Class A felony, not less than forty (40) nor more than sixty (60) years;

(B) For a Class B felony, not less than twenty (20) nor more than thirty (30) years;

(C) For a Class C felony, not less than ten (10) nor more than fifteen (15) years;

(D) For a Class D felony, not less than eight (8) nor more than twelve (12) years; and

(E) For a Class E felony, not less than four (4) nor more than six (6) years.

(b)

(1) This subsection (b) applies to offenses committed on or after July 1, 2022.

(2) A Range I sentence is as follows:

(A) For a Class A felony, not less than eight (8) nor more than ten (10) years;

(B) For a Class B felony, not less than three (3) nor more than four (4) years;

(C) For a Class C felony, not less than two (2) nor more than three (3) years;

(D) For a Class D felony, not less than one (1) nor more than two (2) years; and

(E) For a Class E felony, not less than nine (9) months nor more than fifteen (15) months.

(3) A Range II sentence is as follows:

(A) For a Class A felony, not less than ten (10) nor more than thirteen (13) years;

(B) For a Class B felony, not less than four (4) nor more than eight (8) years;

(C) For a Class C felony, not less than three (3) nor more than five (5) years;

(D) For a Class D felony, not less than two (2) nor more than four (4) years; and

(E) For a Class E felony, not less than fifteen (15) months nor more than two (2) years.

(4) A Range III sentence is as follows:

(A) For a Class A felony, not less than thirteen (13) nor more than twenty-five (25) years;

(B) For a Class B felony, not less than eight (8) nor more than fifteen (15) years;

(C) For a Class C felony, not less than five (5) nor more than seven (7) years;

(D) For a Class D felony, not less than four (4) nor more than five (5) years; and

(E) For a Class E felony, not less than two (2) nor more than three (3) years.

SECTION 4. Tennessee Code Annotated, Title 40, Chapter 35, Part 5, is amended by adding the following new section:

Notwithstanding any law to the contrary, this part applies to sentencing for offenses committed prior to July 1, 2022. Offenses committed on or after July 1, 2022, are subject to part 6 of this chapter.

SECTION 5. Tennessee Code Annotated, Title 40, Chapter 35, is amended by adding the following as a new part:

40-35-601.

This part applies to sentencing for offenses committed on or after July 1, 2022. Offenses committed prior to July 1, 2022, are subject to part 5 of this chapter.

40-35-602.

(a)

(1) A felony sentence to the department of correction or to a local jail or workhouse shall be served according to this chapter. An inmate who is sentenced to a period of less than one (1) year is not eligible for supervised release. An inmate is eligible for supervised release:

(A) One (1) year before the inmate's sentence expiration date, if the sentence imposed is two (2) years or more; or

(B) Six (6) months before the inmate's sentence expiration date, if the sentence imposed is one (1) year or more but less than two (2) years.

(2) Except for inmates who receive sentences of imprisonment for life without possibility of parole or supervised release, only inmates with felony sentences of one (1) year or more or consecutive felony sentences equaling a term of one (1) year or more shall be eligible for supervised release.

(3) This section does not prohibit the offender, in the discretion of the commissioner or sheriff, from participating in work crews that are under direct guard supervision.

(4) An inmate shall not be released under this section until at least ten (10) days after receipt of all sentencing documents by the department and ten (10) days after the department has sent notice of the release eligibility dates to the district attorney general and the appropriate sheriff, jail administrator, workhouse superintendent, or warden.

(b) There is no release eligibility for a defendant receiving a sentence of imprisonment for life without parole or supervised release for first degree murder, aggravated rape of a child, or as a repeat violent offender.

(c) A person who receives a sentence of imprisonment for life for first degree murder is eligible for supervised release after serving fifty-one (51) years minus one (1) year, which may be served on supervised release.

(d) The release eligibility date provided for in this section is the date an inmate convicted of a felony is eligible for supervised release. The date is conditioned on the inmate's good behavior while in prison. For a violation of any of the rules of the department of correction or institution in which the inmate is incarcerated or while on any release program other than supervised release, the commissioner or the commissioner's designees may defer the release eligibility date so as to increase the total amount of time an inmate must serve before becoming eligible for supervised release. This increase may, in the discretion of the commissioner, be in any amount of time not to exceed the full sentence originally imposed by the court and must be imposed pursuant to regulations promulgated by the commissioner that give notice of the length of discretionary increases that may be imposed for a violation of each of the rules of the department or institution.

(e)

(1) The department of correction shall not certify an inmate for supervised release, if, at the time the department would otherwise have certified the inmate as eligible, the inmate is classified as "close custody". The

decertification must continue for the duration of the classification and for a period of one (1) year thereafter.

(2) The department shall not certify an inmate for supervised release if, at the time the department would otherwise have certified the inmate as eligible, the inmate is classified as "maximum custody". The decertification must continue for the duration of the classification and for a period of two (2) years thereafter.

(f) Extensions in the release eligibility date provided for in this section and in other sections of this chapter shall only be imposed following a hearing conducted in accordance with due process of law.

(g) Notwithstanding any other provision of this chapter relating to release eligibility and when acting pursuant to the Tennessee Contract Sentencing Act of 1979, compiled in chapter 34 of this title, the director of probation and parole or the director's designee is authorized to grant a prisoner supervised release as specified in a sentence agreement entered into by the prisoner and the department. In granting the supervised release, the director or the director's designee may impose any conditions and limitations deemed necessary.

(h) Notwithstanding any other law to the contrary, the department of correction is responsible for calculating the sentence expiration date and the release eligibility date of any felony offender sentenced to the department and any felony offender sentenced to confinement in a local jail or workhouse for one (1) year or more.

(i) To assist the department of correction in fulfilling the duty specified in subsection (h), the clerk of the court shall send a copy of each judgment document for a felony conviction to the department. The copies must be forwarded to the department no less than one (1) time each month so that all judgments rendered in one (1) calendar month have been received by the department by the fifteenth day of the following month.

(j) Notwithstanding this section, a defendant sentenced under this chapter is authorized to earn and retain any sentence reduction credits authorized by § 41-21-236

or any other law relating to sentence reduction credits. However, no sentence reduction credits earned or retained by a defendant shall operate to permit the defendant's release on parole, probation, community correction supervision, or supervised release until the defendant has served one hundred percent (100%) of the sentence imposed minus the appropriate period of supervised release under subdivision (a)(1). Any sentence reduction credits earned and retained during that time may be used for the purpose of increased privileges, reduced security classification, or for any purpose other than the reduction of the sentence imposed by the court.

40-35-603.

(a) The director of probation and parole or the director's designee has the authority to grant supervised release of inmates with felony sentences of one (1) year or more or consecutive felony sentences equaling a term of one (1) year or more.

(b) A person convicted of a sex crime shall not be released on supervised release unless a psychiatrist or licensed psychologist designated as a health service provider has examined and evaluated the inmate and certified that, to a reasonable medical certainty, the inmate does not pose the likelihood of committing sexual assaults upon release from confinement. The examination and evaluation shall be provided by psychiatrists or licensed psychologists designated as health service providers whose services are contracted or funded by the department of correction. The department shall consider any other evaluation by a psychiatrist or licensed psychologist designated as a health service provider that may be provided by the incarcerated individual.

(c) Within one (1) year prior to an incarcerated individual's release eligibility date, an employee of the department of correction shall meet with the incarcerated individual to create a release plan. The department shall conduct a hearing within a reasonable time prior to or upon the individual's release eligibility date to determine the individual's eligibility for supervised release.

(d)

(1) An eligible inmate shall be released on supervised release with mandatory reentry supervision for a period specified in § 40-35-602(a)(1) upon the inmate reaching the inmate's release eligibility date.

(2) Notwithstanding § 40-35-111:

(A) If the inmate's release eligibility date is less than one (1) year from the inmate's sentence expiration date due to ineligibility under subsection (b) or § 40-35-602(d) or (e), then the inmate shall serve the one (1) year period of supervised release, but following the inmate's sentence expiration date, any noncriminal, technical violations of supervision conditions must not result in revocation of supervision or incarceration; and

(B) If the inmate reaches the inmate's sentence expiration date without becoming eligible for supervised release due to ineligibility under subsection (b) or § 40-35-602(d) or (e), the inmate shall serve one (1) year immediately following the sentence completion date on supervised release. During the inmate's supervised release, any noncriminal, technical violations of supervision conditions must not result in revocation of supervision or incarceration.

40-35-604.

(a) A defendant convicted of a felony who has been admitted to supervised release shall be supervised by the department of correction and shall make periodic reports to an assigned supervision officer for the entire term of the defendant's supervised release.

(b) A defendant who has been admitted to supervised release shall still be considered to be within the jurisdiction of the department of correction and shall be subject to termination of supervised release status for the remainder of the sentence originally imposed.

(c) A defendant who violates the terms of supervised release is subject to the terms of §§ 40-35-608 — 40-35-610, which shall govern the termination of supervised release.

(d) If a defendant who has been placed on supervised release is convicted of a felony committed while on supervised release, the director of probation and parole or the director's designee, in the director's or the director's designee's discretion, may revoke the defendant's supervised release and require the defendant to serve the remainder of the sentence originally imposed, or a portion of the original sentence as the director or the director's designee may determine, before the defendant begins serving the sentence for the crime committed while on supervised release.

(e) Upon revocation of supervised release by the director or the director's designee under subsection (c) or (d), the time a defendant spent on supervised release shall not be considered as service of the sentence unless the director or the director's designee determines to grant all or part of the time to the defendant.

40-35-605.

Before the release of an inmate under this chapter, the department of correction shall conduct an orientation for the inmate concerning relevant post-release or supervised release issues. As a part of the department's existing orientation program, the orientation must address issues of restoration of citizenship, voting, and the availability of services relating to education, employment, family, and child support. Specific attention must be given to, but not limited to, general equivalency diplomas and adult education, access to health care and health insurance, reinstatement of licenses and voting rights, and food stamps.

40-35-606.

(a) Subject to other provisions of law, the department of correction is charged with the duty of determining when prisoners serving a felony sentence of one (1) year or

more or consecutive felony sentences equaling a term of one (1) year or more in state prisons, jails, and county workhouses are eligible to be released on supervised release.

(b) When the director of probation and parole issues a warrant for the retaking of a person on supervised release pursuant to § 40-28-607, the director or the director's designee is charged with determining whether violation of supervised release conditions exists in specific cases and of deciding the action to be taken in reference to the violation.

40-35-607.

(a) The department of correction shall keep records which may include social, physical, mental, psychiatric, and criminal information for every inmate released.

(b) The department may make rules, as it deems proper, as to the privacy of the record and of the records of its employment bureau and their use by others than the department.

40-35-608.

(a) Upon the issuance of a warrant under § 40-28-607, any officer authorized to serve criminal process, or any peace officer to whom a warrant is delivered, shall execute the warrant by taking the prisoner and returning the prisoner to a prison, workhouse, or jail to be held to await the action of the department of correction.

(b) Upon the arrest of a person on supervised release pursuant to subsection (a), unless waived in writing, a preliminary hearing shall be conducted to determine whether probable cause exists to believe that the person has violated the conditions of supervised release in an important respect. Indictment by a grand jury, a finding of probable cause, a waiver of a probable cause hearing, or a conviction in any federal or state court of competent jurisdiction for any felony or misdemeanor committed after release constitutes "probable cause" and no further proof is necessary at the preliminary hearing. If a supervised release revocation hearing is held within fourteen (14) days of the service of the warrant, a preliminary hearing will not be necessary.

(c) The department of correction shall provide written notice of the violations alleged and the time, place, and purpose of the hearing to the person on supervised release a reasonable time before the hearing.

(d) The preliminary hearing must be conducted by a hearing officer, appointed by the commissioner of correction.

40-35-609.

(a) When the director of probation and parole issues a warrant for the retaking of a person on supervised release pursuant to § 40-28-607, the director of probation and parole is charged with determining whether violation of supervised release conditions exists in specific cases and of deciding the action to be taken in reference to the violation. After being notified that a warrant has been executed and a probable cause hearing has been held or waived, the department shall, as soon as practicable, hold a supervised release revocation hearing and consider the case of the supervised release violator, who must be given an opportunity to appear personally before a hearing officer, designated by the commissioner, and explain the charges made. A probable cause hearing is not necessary if a supervised release revocation hearing is held within fourteen (14) days of the service of the warrant.

(b) A laboratory report regarding a supervised release person's drug test may be admissible in a supervised release revocation proceeding, even though the laboratory technician who performed the test is not present to testify, when accompanied by an affidavit containing at least the following information:

- (1) The identity of the certifying technician;
- (2) A statement of qualifications of the certifying technician;
- (3) A specific description of the testing methodology;
- (4) A statement that the method of testing was the most accurate test for this particular drug;
- (5) A certification that the results were reliable and accurate;

(6) A declaration that all established procedures and protocols were followed; and

(7) A statement of acknowledgment that submission of false information in the affidavit may subject the affiant to prosecution for the criminal offense of perjury pursuant to § 39-16-702.

(c)

(1) The director of probation and parole or the director's designee shall, within a reasonable time, act upon the charges, and may, if the director or the director's designee sees fit:

(A) For a revocation of supervised release that does not involve a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, or absconding, require the prisoner to serve a term of incarceration not to exceed:

(i) Fifteen (15) days for the first revocation;

(ii) Thirty (30) days for the second revocation;

(iii) Ninety (90) days for the third revocation; or

(iv) The remainder of the sentence, for a fourth or

subsequent revocation; or

(B) For a revocation of supervised release that involves a new felony, new Class A misdemeanor, zero tolerance violation as defined by the department of correction community supervision sanction matrix, or absconding, require the prisoner to serve out in prison the balance of the maximum term for which the prisoner was originally sentenced, calculated from the date of delinquency, or such part thereof, as the director may determine, or impose a punishment as the director or the director's designee deems proper, subject to § 40-28-123.

(2) At a revocation hearing for a prisoner who is on supervised release from a department of correction facility, the director or the director's designee may also, in conjunction with revocation of the prisoner's supervised release for reasons other than the commission of a new felony offense, rerelease the prisoner effective upon the department's certification that the prisoner has successfully completed a diversion program established by the department of correction pursuant to § 41-1-123. If the offender fails to successfully complete the program, the offender shall be scheduled for a rerelease rescission hearing.

(d)

(1) In any revocation hearing conducted by the director of probation and parole or the director's designee, or in cases of initial preliminary hearings, the hearing officer, the director, designee, or hearing officer is authorized to appoint legal counsel for an indigent individual where necessary in obedience to the requirements of the supreme court of the United States. For this purpose, the supreme court of Tennessee shall prescribe by rule the nature of costs for which reimbursement may be allowed, and the limitations on and conditions for the reimbursement of costs as it deems appropriate in the public interest, subject to this part. The rules shall also specify the form and content of applications for reimbursement of costs to be filed under this section.

(2) The administrative director of the courts shall administer this subsection (d) and rules promulgated pursuant to subdivision (d)(1), and shall audit and review all applications for reimbursement of cost. Upon finding payment to be in order, the administrative director of the courts shall process the payment thereof out of money appropriated for that purpose.

(e) Costs incurred by the state in providing legal counsel shall be minimized insofar as is possible and practicable by the appointment by the director of counsel from any legal services group functioning in the county in which the proceedings are held if

the group is supported in whole or in part from federal, state, county, or municipal moneys.

(f)

(1) This subsection (f) applies to a prisoner on supervised release who is reincarcerated while awaiting a supervised release revocation preliminary hearing, a supervised release revocation hearing, or a supervised release rescission hearing, or following revocation or rescission of supervised release, and the sole reason the released prisoner was arrested and reincarcerated was because the released prisoner was charged with a new offense. Upon receipt of notification that the prisoner's revocation or rescission case, which was previously decided by the director of probation and parole, merits further review based upon the circumstances under which the new offense was dismissed, the director shall waive the time limitation for appeal, as set in rule by the department of correction, and any limitation based on previously filed appeals, in order that the prisoner may submit evidence of any of the following events:

(A) The charge or charges against the released prisoner that resulted in the arrest of the prisoner for a supervised release violation were dismissed or retired based on the merits of the case;

(B) A no true bill was returned by a grand jury on the charge or charges;

(C) A verdict of not guilty was returned, whether by the judge following a bench trial or by a jury; or

(D) The prisoner on supervised release was arrested and released without being charged.

(2) The notification required by subdivision (f)(1) may be in written or electronic form and shall be submitted by:

(A) The district attorney general from the judicial district in which the charges were brought or the district attorney general's designee;

(B) The judge in the court where charges were brought;

(C) The department of correction;

(D) The prisoner's attorney, provided that the notification is also signed by one (1) of the officials in subdivisions (f)(2)(A)-(C); or

(E) The prisoner, provided that the notification is also signed by one (1) of the officials in subdivisions (f)(2)(A)-(C).

(3) Upon verification of the authenticity of the submitted notification, which shall occur within ten (10) business days from receipt of the notification, and submission of evidence of the occurrence of one (1) or more of the events in subdivisions (f)(1)(A)-(D), the director or the director's designee shall conduct a hearing on the record to determine if:

(A) One (1) of the events in subdivisions (f)(1)(A)-(D) has occurred involving a charge against a released person that was committed while on supervised release; and

(B) The released person was reincarcerated solely because of this charge and the released person remains incarcerated while awaiting a supervised release revocation or rescission hearing or because the person's supervised release was revoked or rescinded.

(4) If, after the director or the director's designee conducts a hearing on the record, the director or the director's designee determines that the events described in subdivisions (f)(3)(A) and (B) have occurred, then the director or the director's designee may order the release and reinstatement on supervised release of the prisoner in accordance with applicable law. If released and reinstated, any sentence credits that may have been lost while the released person was incarcerated must also be reinstated.

(5) The hearing conducted pursuant to this subsection (f) must be scheduled on the next available docket upon the occurrence of the events defined in subdivisions (f)(1)-(3), and must be conducted no later than thirty-five (35) days from verification of the notification required by subdivision (f)(1).

40-35-610.

(a) Any prisoner who is convicted in this state of a felony, committed while on supervised release from a state prison, jail, or workhouse, shall serve the remainder of the sentence under which the prisoner was released, or part of that sentence, as the director of probation and parole may determine before the prisoner commences serving the sentence received for the felony committed while on supervised release. If any prisoner while on supervised release from a state prison, jail, or workhouse commits a crime under the laws of another state government or country which, if committed within this state, would be a felony, and is convicted of the crime, the director shall arrange for the return of the prisoner through the terms of the interstate compact. The director shall require that the prisoner serve the portion remaining of the maximum term of sentence or part of that sentence as the director may determine. The director may recommend to the commissioner of correction the removal of all or any part of the good and honor time and incentive time accrued on the sentence under which the prisoner was admitted to supervised release.

(b)

(1) Any prisoner who is convicted in this state of any felony except escape, and when the felony is committed while the prisoner is assigned to any work release, educational release, restitution release, or other program whereby the prisoner enjoys the privilege of release into the community, including, but not limited to, participation in any programs authorized by § 41-21-208 or § 41-21-227, the prisoner shall serve the remainder of the term without benefit of supervised release eligibility prior to the prisoner's sentence expiration date or

further participation in any of these programs. The department of correction has the authority to penalize or punish prisoners who escape from any of the above programs in accordance with department policy.

(2) As a prerequisite to any inmate's placement in a program described in subdivision (b)(1), the department shall read and provide the inmate with a copy of subdivision (b)(1). The inmate shall then give written acknowledgement of receipt of the copy and shall signify comprehension of the provisions contained in it. The department shall maintain a permanent file, hard copy or electronic, of these acknowledgements.

40-35-611.

Chapter 28, parts 2, 3, 4, and 6 of this title apply to an offender who was convicted of an offense occurring on or after July 1, 2022, in the same manner that such parts apply to an offender who was convicted of an offense that occurred prior to that date.

SECTION 6. Tennessee Code Annotated, Title 40, Chapter 28, Part 2, is amended by adding the following as a new section:

Notwithstanding § 40-28-102, as used in this part, "parole" includes the supervised release of a prisoner to the community by the director of probation and parole prior to the expiration of the prisoner's term subject to conditions imposed by the director and to supervision by the department.

SECTION 7. Tennessee Code Annotated, Section 40-28-301(2)(A), is amended by adding the following as a new subdivision:

(iii) The placement by the director of probation and parole of an individual on supervised release from prison or jail, with conditions imposed by the director of probation and parole for a specified period; and

SECTION 8. Tennessee Code Annotated, Section 40-28-301, is amended by adding the following as a new subdivision:

() "Parole" includes, notwithstanding § 40-28-102, the supervised release of a prisoner to the community by the director of probation and parole prior to the expiration of the prisoner's term subject to conditions imposed by the director and to supervision by the department;

SECTION 9. Tennessee Code Annotated, Title 40, Chapter 28, Part 4, is amended by adding the following as a new section:

Notwithstanding § 40-28-102, as used in this part, "parole" includes the supervised release of a prisoner to the community by the director of probation and parole prior to the expiration of the prisoner's term subject to conditions imposed by the director and to supervision by the department.

SECTION 10. Tennessee Code Annotated, Title 40, Chapter 28, Part 6, is amended by adding the following as a new section:

Notwithstanding § 40-28-102, as used in this part, "parole" includes the supervised release of a prisoner to the community by the director of probation and parole prior to the expiration of the prisoner's term subject to conditions imposed by the director and to supervision by the department.

SECTION 11. Tennessee Code Annotated, Section 40-28-602(a), is amended by adding the following new subdivision:

(7) Grant an eligible inmate serving a sentence of imprisonment for an offense that occurred on or after July 1, 2022, supervised release and impose any appropriate conditions of release on the inmate.

SECTION 12. Tennessee Code Annotated, Section 40-28-607(b), is amended by deleting the language "the board" and substituting instead the language "the board, if the inmate's offense was committed prior to July 1, 2022, or the director of probation and parole, if the inmate's offense was committed on or after July 1, 2022".

SECTION 13. Tennessee Code Annotated, Section 40-28-104(a)(3), is amended by deleting the language "The authority to develop and implement guidelines for granting or denying parole" and substituting instead the language:

The authority to develop and implement guidelines for granting or denying parole for inmates serving a sentence of imprisonment for an offense committed prior to July 1, 2022,

SECTION 14. Tennessee Code Annotated, Section 40-28-105, is amended by adding the following new subsection:

(g) The board's authority to grant, revoke, or rescind parole is limited to inmates serving a sentence of imprisonment for an offense committed prior to July 1, 2022.

SECTION 15. Tennessee Code Annotated, Section 40-28-113, is amended by deleting the section and substituting instead the following:

This part applies to every person sentenced to a state or county correctional facility for an offense committed prior to July 1, 2022, and to those who may now be serving a sentence in a state or county correctional facility for an offense committed prior to July 1, 2022.

SECTION 16. Tennessee Code Annotated, Section 40-35-109(b), is amended by deleting the subsection and substituting instead the following:

(b) If the court finds the defendant an especially mitigated offender, the court shall reduce the defendant's statutory Range I minimum sentence by ten percent (10%).

SECTION 17. Tennessee Code Annotated, Section 39-13-102(e)(1), is amended by adding the following subdivision:

(C) Notwithstanding title 40, chapter 35, a person convicted of aggravated assault that results in the death of another shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 18. Tennessee Code Annotated, Section 39-13-110(c), is amended by redesignating subsection (c) as subdivision (c)(1) and adding the following new subdivision (c)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of female genital mutilation shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 19. Tennessee Code Annotated, Section 39-13-111(c)(3), is amended by deleting the language "the offense is a Class E felony, with a mandatory confinement of not less than ninety (90) consecutive days in the county jail or workhouse." and substituting:

the offense is a Class E felony and, notwithstanding title 40, chapter 35, the defendant shall be punished as a Range II offender; however, the sentence imposed upon the defendant may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 20. Tennessee Code Annotated, Section 39-13-202, is amended by adding the following as a new subsection:

(f) Attempted first degree murder is a Class A felony. Notwithstanding title 40, chapter 35, a person convicted of attempted first degree murder where the victim suffers serious bodily injury shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 21. Tennessee Code Annotated, Section 39-13-210, is amended by deleting subdivision (c)(1) and substituting:

(1) Second degree murder is a Class A felony. Notwithstanding title 40, chapter 35, a person convicted of second degree murder shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 22. Tennessee Code Annotated, Section 39-13-218(d), is amended by deleting the subsection and substituting:

(d)

(1) Aggravated vehicular homicide is a Class A felony.

(2) Notwithstanding title 40, chapter 35, a person convicted of aggravated vehicular homicide shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 23. Tennessee Code Annotated, Section 39-13-304(b)(1), is amended by deleting the subdivision and substituting:

(1) Aggravated kidnapping is a Class B felony. Notwithstanding title 40, chapter 35, a person convicted of aggravated kidnapping shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 24. Tennessee Code Annotated, Section 39-13-305(b)(1), is amended by deleting the subdivision and substituting:

(1) Especially aggravated kidnapping is a Class A felony. Notwithstanding title 40, chapter 35, a person convicted of especially aggravated kidnapping shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 25. Tennessee Code Annotated, Section 39-13-309, is amended by redesignating subsection (c) as subdivision (c)(1) and adding the following new subdivision (c)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of trafficking for commercial sex act shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 26. Tennessee Code Annotated, Section 39-13-315(b), is amended by adding the following new subdivision:

(3) Notwithstanding title 40, chapter 35, a person convicted of advertising commercial sexual abuse of a minor shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 27. Tennessee Code Annotated, Section 39-13-402(b), is amended by deleting the subsection and substituting:

(b) Aggravated robbery is a Class B felony. Notwithstanding title 40, chapter 35, a person convicted of aggravated robbery shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 28. Tennessee Code Annotated, Section 39-13-403, is amended by deleting subsection (b) and substituting:

(b) Especially aggravated robbery is a Class A felony. Notwithstanding title 40, chapter 35, a person convicted of especially aggravated robbery shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 29. Tennessee Code Annotated, Section 39-13-502(b), is amended by deleting the subsection and substituting:

(b) Aggravated rape is a Class A felony. Notwithstanding title 40, chapter 35, a person convicted of aggravated rape shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 30. Tennessee Code Annotated, Section 39-13-503(b), is amended by deleting the subsection and substituting:

(b) Rape is a Class B felony. Notwithstanding title 40, chapter 35, a person convicted of rape shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 31. Tennessee Code Annotated, Section 39-13-504(b), is amended by deleting the subsection and substituting:

(b) Aggravated sexual battery is a Class B felony. Notwithstanding title 40, chapter 35, a person convicted of aggravated sexual battery shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 32. Tennessee Code Annotated, Section 39-13-505(d), is amended by deleting the subsection and substituting:

(d) Sexual battery is a Class E felony. Notwithstanding title 40, chapter 35, a person convicted of sexual battery shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 33. Tennessee Code Annotated, Section 39-13-506(d)(3), is amended by deleting the subdivision and substituting:

(3) Aggravated statutory rape is a Class D felony. Notwithstanding title 40, chapter 35, a person convicted of aggravated statutory rape shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 34. Tennessee Code Annotated, Section 39-13-511(b), is amended by adding the following new subdivision:

(5) Notwithstanding title 40, chapter 35, a person convicted of a felony violation of this section shall be punished as a Range II offender; however, the sentence imposed

upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 35. Tennessee Code Annotated, Section 39-13-515, is amended by adding the following new subsection:

(e) Notwithstanding title 40, chapter 35, a person convicted of promoting prostitution shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 36. Tennessee Code Annotated, Section 39-13-517(d)(3), is amended by adding the following new subdivision:

(C) Notwithstanding title 40, chapter 35, a person convicted of public indecency under this subdivision (d)(3) shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 37. Tennessee Code Annotated, Section 39-13-518(g), is amended by deleting the subsection and substituting:

(g) Notwithstanding title 40, chapter 35, a person convicted of continuous sexual abuse of a child shall be punished by imprisonment and sentenced from within Range II or Range III regardless of the range for which the defendant would otherwise qualify.

SECTION 38. Tennessee Code Annotated, Section 39-13-522(b)(2)(A), is amended by deleting the subdivision and substituting:

(A) Notwithstanding title 40, chapter 35, a person convicted of rape of a child shall be punished as a Range III offender; however, the sentence imposed upon such person may, if appropriate, be as a career offender but in no case shall it be lower than Range III.

SECTION 39. Tennessee Code Annotated, Section 39-13-524(a), is amended by adding the following new subdivision:

() July 1, 2022, commits a violation of § 39-13-518;

SECTION 40. Tennessee Code Annotated, Section 39-13-527, is amended by redesignating subsection (b) as subdivision (b)(1) and adding the following new subdivision (b)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of sexual battery by an authority figure shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 41. Tennessee Code Annotated, Section 39-13-528, is amended by redesignating subsection (c) as subdivision (c)(1) and adding the following new subdivision (c)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of felony solicitation of a minor shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 42. Tennessee Code Annotated, Section 39-13-529(e), is amended by adding the following new subdivision:

(3) Notwithstanding title 40, chapter 35, a person convicted of soliciting sexual exploitation of a minor shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 43. Tennessee Code Annotated, Section 39-13-532, is amended by redesignating subsection (b) as subdivision (b)(1) and adding the following new subdivision (b)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of statutory rape by an authority figure shall be punished as a Range II offender; however, the sentence

imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 44. Tennessee Code Annotated, Section 39-13-533, is amended by redesignating subsection (c) as subdivision (c)(1) and adding the following new subdivision (c)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of promoting travel for prostitution shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 45. Tennessee Code Annotated, Section 39-13-605, is amended by adding the following new subsection:

(g) Notwithstanding title 40, chapter 35, a person convicted of unlawful photographing in violation of privacy when the victim is under thirteen (13) years of age shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 46. Tennessee Code Annotated, Section 39-13-607(d)(2), is amended by redesignating the subdivision as subdivision (d)(2)(A) and adding the following new subdivision:

(B) Notwithstanding title 40, chapter 35, a person convicted of observation without consent when the victim is under thirteen (13) years of age shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 47. Tennessee Code Annotated, Section 39-14-302(b), is amended by deleting the subsection and substituting:

(b) Aggravated arson is a Class A felony. Notwithstanding title 40, chapter 35, a person convicted of aggravated arson shall be punished as a Range II offender;

however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 48. Tennessee Code Annotated, Section 39-13-1003(b), is amended by deleting the subsection and substituting:

(b)

(1) Aggravated burglary is a Class C felony.

(2) Notwithstanding title 40, chapter 35, a person who is convicted of aggravated burglary and who has two (2) or more prior convictions within the previous ten (10) years for aggravated burglary or especially aggravated burglary or a combination of the two (2) offenses shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 49. Tennessee Code Annotated, Section 39-15-302, is amended by redesignating subsection (b) as subdivision (b)(1) and adding the following subdivision (b)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of incest shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 50. Tennessee Code Annotated, Section 39-15-401, is amended by adding the following new subsection:

(j) Notwithstanding title 40, chapter 35, a person convicted of felony child abuse or felony child neglect or endangerment shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 51. Tennessee Code Annotated, Section 39-15-402, is amended by redesignating subsection (b) as subdivision (b)(1) and adding the following subdivision (b)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of aggravated child abuse or aggravated child neglect or endangerment shall be punished as a Range II

offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 52. Tennessee Code Annotated, Section 39-17-417, is amended by adding the following new subsection:

() Notwithstanding title 40, chapter 35, a person who is convicted of the manufacture, delivery, or sale of a controlled substance under this section, where the instant offense is classified as a Class A, B, or C felony and who has two (2) or more prior convictions within the previous ten (10) years for the manufacture, delivery, or sale of a controlled substance classified as a Class A, B, or C felony prior to or at the time of committing the instant offense, shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 53. Tennessee Code Annotated, Section 39-17-902, is amended by redesignating subsection (d) as subdivision (d)(1) and adding the following subdivision (d)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of violating subsection (b) shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 54. Tennessee Code Annotated, Section 39-17-910, is amended by redesignating subsection (f) as subdivision (f)(1) and adding the following subdivision (f)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of selling, distributing, or transporting a child-like sex doll into this state shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 55. Tennessee Code Annotated, Section 39-17-1003(d), is amended by deleting the subsection and substituting:

(d)

(1) Except as provided in subdivisions (d)(2) and (3), a violation of this section is a Class D felony.

(2) A violation of this section, in which the number of individual images, materials, or combination of images and materials possessed is more than fifty (50), is a Class C felony.

(3) A violation of this section, in which the number of individual images, materials, or combination of images and materials possessed is more than one hundred (100), is a Class B felony. Notwithstanding title 40, chapter 35, a defendant convicted under this subdivision (d)(3) shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 56. Tennessee Code Annotated, Section 39-17-1004(a)(4), is amended by deleting the subdivision and substituting the following:

(A) A violation of this subsection (a) is a Class C felony; however, if the number of individual images, materials, or combination of images and materials that are promoted, sold, distributed, transported, purchased, exchanged, or possessed, with intent to promote, sell, distribute, transport, purchase, or exchange, is more than twenty-five (25), then the offense is a Class B felony.

(B) Notwithstanding title 40, chapter 35, a person convicted of aggravated sexual exploitation of a minor under this subsection (a) shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 57. Tennessee Code Annotated, Section 39-17-1004(b)(4), is amended by deleting the subdivision and substituting the following:

(A) A violation of this subsection (b) is a Class C felony; however, if the number of individual images, materials, or combination of images and materials, that are promoted, sold, distributed, transported, purchased, exchanged, or possessed, with

intent to promote, sell, distribute, transport, purchase, or exchange, is more than twenty-five (25), then the offense is a Class B felony.

(B) Notwithstanding title 40, chapter 35, a person convicted of aggravated sexual exploitation of a minor under this subsection (b) shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 58. Tennessee Code Annotated, Section 39-17-1005(d), is amended by designating the existing language as subdivision (d)(1) and adding the following new subdivision (d)(2):

(2) Notwithstanding title 40, chapter 35, a person convicted of especially aggravated sexual exploitation of a minor shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 59. Tennessee Code Annotated, Section 55-10-402(a), is amended by adding the following new subdivision:

(7) Notwithstanding title 40, chapter 35, in addition to the other penalties provided in this section, a person who is convicted of violating § 55-10-401, who has six (6) or more prior convictions as described in § 55-10-405(c), shall be punished as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 60. Tennessee Code Annotated, Section 39-13-202, is amended by deleting the language "without possibility of parole" wherever it appears and substituting instead the language "without possibility of parole or supervised release".

SECTION 61. Tennessee Code Annotated, Section 39-13-203(d), is amended by deleting the language "without possibility of parole" wherever it appears and substituting instead the language "without possibility of parole or supervised release".

SECTION 62. Tennessee Code Annotated, Section 39-13-204, is amended by deleting the language "without possibility of parole" and the language "without the possibility of parole" wherever each appears and substituting instead the language "without possibility of parole or supervised release".

SECTION 63. Tennessee Code Annotated, Section 39-13-206, is amended by deleting the language "without possibility of parole" wherever it appears and substituting instead the language "without possibility of parole or supervised release".

SECTION 64. Tennessee Code Annotated, Section 39-13-207, is amended by deleting the language "without possibility of parole" and the language "without the possibility of parole" wherever each appears and substituting instead the language "without possibility of parole or supervised release".

SECTION 65. Tennessee Code Annotated, Section 39-13-208, is amended by deleting the language "without possibility of parole" wherever it appears and substituting instead the language "without possibility of parole or supervised release".

SECTION 66. Tennessee Code Annotated, Section 39-13-531, is amended by deleting the language "without the possibility of parole" and substituting instead the language "without possibility of parole or supervised release".

SECTION 67. Tennessee Code Annotated, Section 40-35-303(c)(1), is amended by deleting the first sentence of the subdivision and substituting instead the following:

If the court determines that a period of probation is appropriate, the court shall sentence the defendant to a specific sentence but shall suspend the execution of all or part of the sentence and place the defendant on supervised or unsupervised probation either immediately or after a period of confinement for a period of time no less than the minimum sentence allowed under the classification and up to and including the statutory maximum time for the class of the conviction offense or, if the defendant has committed a felony offense, up to eight (8) years.

SECTION 68. Tennessee Code Annotated, Section 40-35-111, is amended by adding the following new subsection:

(g) Notwithstanding the authorized terms of imprisonment for felonies in subsection (b), a defendant who has been convicted of a felony that is eligible for probation may be placed on supervised or unsupervised probation for up to eight (8) years.

SECTION 69. Tennessee Code Annotated, Section 41-21-236, is amended by deleting the section and substituting:

(a) Those persons committed to the custody of the department of correction shall be assigned to work, educational, or training programs when positions in those programs are available.

(b) The department of correction is authorized to continue the application of the previously enacted sentence credit systems to any inmates to whom the systems apply on June 30, 2022. Any sentence credits earned or awarded under previously enacted systems shall continue to remain in full force and effect unless and until the credits are taken away in accordance with the procedures established under the previously enacted systems. The department shall permit inmates to earn any credits for which the inmate is eligible. The credits earned on or after July 1, 2022, may be used for the purpose of increased privileges, reduced security classification, or for any purpose other than the reduction of the sentence imposed by the court.

(c)

(1) Except as provided in subsection (b), notwithstanding any other law to the contrary, for inmates sentenced for offenses committed prior to January 1, 1988, no sentence credits authorized by this section or any other law, nor a sentence contract authorized by §§ 40-28-115, 40-28-116, 40-34-103, and 40-35-501, or any other law, shall have the effect of reducing the amount of time an

inmate must serve before the inmate's earliest release eligibility date, undiminished by any sentence credits, by more than thirty-five percent (35%).

(2) For inmates sentenced for offenses committed on or after January 1, 1988, but prior to July 1, 2022, no sentence credits or sentence contract shall have the effect of reducing the amount of time an inmate must serve before the inmate's earliest release eligibility date, undiminished by the sentence credits, by more than thirty percent (30%).

(3) For inmates sentenced for offenses committed on or after July 1, 2022, no sentence credits or sentence contract shall have the effect of reducing the amount of time an inmate must serve before the inmate's earliest release eligibility date, undiminished by the sentence credits.

(d) As used in this section, "sentence credits" includes any credit, whether called a credit or not, that results in a reduction of the amount of time an inmate must serve on the original sentence or sentences.

(e) This section does not apply when the powers granted pursuant to this title are in effect to reduce prison overcrowding.

SECTION 70. Tennessee Code Annotated, Section 41-21-208, is amended by adding the following as a new subsection:

(c)

(1) The commissioner shall establish a program to provide eligible inmates with work-release opportunities at local businesses.

(2) As used in this subsection (c), "eligible inmate" means an inmate:

(A) Committed to the custody of the department of correction;

(B) With minimum direct or minimum trustee status;

(C) Who has demonstrated good behavior by participating in programming opportunities; and

(D) Who satisfies any other conditions established by the commissioner and the warden.

(3) The commissioner or the commissioner's designee shall determine which businesses are eligible to participate in the program, the nature and structure of the work-release opportunities, and the process by which eligible inmates will be matched with work-release opportunities.

(4) Businesses that are selected for participation must provide a mentor to the inmate. The mentor shall be enrolled in the volunteer mentorship initiative program for the duration the business participates in the work-release program.

(5)

(A) A participating business shall pay a regular wage to the inmate.

(B) The warden will receive the inmate's wages pursuant to § 41-21-216. The funds received by the warden are subject to the satisfaction of any fines, costs, and expenses pursuant to § 41-21-217.

(C) The commissioner, or the commissioner's designee, shall establish rules, regulations, policies, and procedures regarding the inmate's access to the inmate's trust fund account while incarcerated.

SECTION 71. Tennessee Code Annotated, Section 39-13-1004(c), is amended by deleting the subsection and substituting:

(c)

(1) Especially aggravated burglary is a Class B felony.

(2) Notwithstanding title 40, chapter 35, a person who is convicted of especially aggravated burglary and who has two (2) or more prior convictions within the previous ten (10) years for aggravated burglary or especially aggravated burglary or a combination of the two (2) offenses shall be punished

as a Range II offender; however, the sentence imposed upon such person may, if appropriate, be within Range III but in no case shall it be lower than Range II.

SECTION 72. For the purposes of promulgating rules and regulations, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, Sections 17 through Section 66 and Section 71 take effect July 1, 2022, the public welfare requiring it, and apply to offenses committed on or after that date. For all other purposes, the remainder of this act takes effect July 1, 2022, the public welfare requiring it.